

INTERNAL REVENUE SERVICE

North Atlantic Region

Department of the Treasury

Address any reply to:

Person to Contact:

Telephone Number:

Refer Reply to:

Date: JUL 13 1994

CERTIFIED MAIL

Gentlemen:

This is Our Final Adverse Determination/Ruling Letter concerning your organization's request for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated [REDACTED] in the State of [REDACTED].

The purposes for which the corporation was formed are as follows:

To research, assemble and preserve the historical records of the [REDACTED] Family and to study the events of US history colonial period and the 18th, 19th and 20th century period which impacted on the family history.

To operate and participate in educational programs concerning the [REDACTED] Family history sponsoring seminars, classes, working with other genealogical groups.

To sponsor and operate family meetings and reunions to promote the interest, research and educational functions of the family history.

To fund charitable activities in connection with the [REDACTED] Family and others.

The information submitted in your 1023 application indicates that your primary activity is to assemble the historical records of the [REDACTED] Family. The organization is working with the [REDACTED] to develop and plan a repository for these documents which will be used by family members and scholars for historical research. In addition, the organization holds periodic family reunions at which Educational Seminars will be conducted about the [REDACTED] Family history.

The organization's financial support will be primarily membership dues and contributions from interested persons.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Your organization has failed both the organization and operational tests. Your certificate of incorporation does not meet the organizational test for a 501(c)(3) organization. An organization is organized exclusively for one or more exempt purposes, only if its articles of organization limit the purposes of such an organization to one or more exempt purposes and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes described in Section 501(c)(3) of the Code. Section 1.501(c)(3)-1(b)(1)(iv) of the Regulations states in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if by the terms of its articles, the purposes for which such an organization is created are broader than the purposes specified in Section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. US, 326 US 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Sec. 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in Sec. 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of Section 501(c)(3) of the Code, may qualify under this section.

In Revenue Ruling 80-302, 1980-1 CB-182, an organization that (1) limits its membership to descendants of a particular family, (2) compiles family genealogical research data for use by its members for reasons other than to conform to the religious precepts of the family's denomination, (3) presents the data to designated libraries, (4) publishes volumes of family history, and (5) promotes social activities among family members does not qualify for exemption under Section 501(c)(3) of the Code.

Your activities are like the activities of the organization described in Revenue Ruling 80-302 in which the activities are limited to one particular family who focus on its own genealogy. These activities do not advance education to benefit the public interest within the meaning of Section 1.501(c)(3)-1(d)(1)(ii) of the regulation. Any benefit to the general public is merely incidental to the private benefit accruing to family members.

In Revenue Ruling 80-301, 1980-1 CB-180, a genealogical society that (1) opens its membership to all persons in a particular area, (2) provides instruction in genealogical research techniques to its members and to the general public, but does not research genealogies for its members, (3) conducts research projects and makes the results available to the state historical society, (4) provides materials for libraries and community displays, and (5) promotes various other related activities for the public qualifies for exemption under Section 501(c)(3) of the Code.

Unlike the organization described in Revenue Ruling 80-301, your organization is organized and operated for the benefit of a specific family. And, therefore, the organization does not meet the requirements for exemption under Sec. 501(c)(3) of the Internal Revenue Code.

Accordingly, your organization does not qualify for exemption under Sec. 501(c)(3) of the Internal Revenue Code. Therefore, you are required to file Federal income tax returns on Form 1120 or 1041.

Contributions to your organization are not deductible under Section 170 of the Code.

If you decide to contest this determination under the declaratory judgment provisions of Section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the District Court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

-4-

As provided in Section 6104(c) of the Internal Revenue Code and applicable regulations, the appropriate State Officials will be notified of this determination.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Margaret Milner Richardson
Commissicner

By

Associate Chief
Boston Appeals Office

5-18-94